

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

A.M.,¹

Plaintiff,

v.

**KILOLO KIJAKAZI, Acting Commissioner
of the Social Security Administration,**

Defendant.

Case No. 21-2353-DDC

MEMORANDUM AND ORDER

Before the court is plaintiff’s Motion For Leave to File Complaint In Forma Pauperis (Doc. 3), docketed August 16, 2021.² Plaintiff’s Complaint asks the court to review an unfavorable decision from the Commissioner of the Social Security Administration about plaintiff’s request “for Social Security Disability and disability insurance benefits[.]” Doc. 1 at 1 (Compl. ¶ 1); *see also id.* (Compl. ¶ 2) (“The Unfavorable Decision was not based on substantial

¹ The court uses plaintiff’s initials here as part of its efforts to preserve privacy interests. Even though the history of this litigation tempers the privacy interests, the court will follow its practice.

² There are two ancillary issues worth noting about plaintiff’s Complaint (Doc. 1) and Motion for Leave to File Complaint In Forma Pauperis (Doc. 3). *First*, the Complaint and pending motion both mention the defendant—Kilolo Kijakazi, “the Commissioner of the Social Security Administration[.]” Doc. 1 at 1 (Compl. ¶ 1); *see also* Doc. 3 at 1. In fact, Kilolo Kijakazi is the *Acting* Commissioner of the Social Security Administration. *See* U.S. Soc. Sec. Admin., <http://www.ssa.gov/agency/commissioner/> (last visited Aug. 17, 2021); *see also O’Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) (“It is not uncommon for courts to take judicial notice of factual information found on the world wide web.” (citations omitted)). So, the court takes judicial notice of this factual detail and has adjusted this case’s caption in this Order. *Second*, plaintiff’s Motion for Leave to File Complaint In Forma Pauperis (Doc. 3) references another individual’s name. *See* Doc. 3 at 1. This appears to reflect a typographical error, likely because plaintiff’s counsel represents an individual by this name in a separate case in our court. *See* Compl., *J.E. v. Saul.*, No. 2:21-cv-02298-JAR (D. Kan. July 6, 2021), ECF No. 1; *see also Johnson v. Spencer*, 950 F.3d 680, 705 (10th Cir. 2020) (explaining that a district court “may take judicial notice of its own files and records” (internal quotation marks and citations omitted)). So, the court also will take judicial notice of this detail. And, the discrepancy is of no bearing on the pending motion because the court understands the crux of plaintiff’s request.

evidence in the record[.]”). Plaintiff’s Motion for Leave to File Complaint In Forma Pauperis (Doc. 3) includes an Affidavit of Financial Status (Doc. 3-1) supporting plaintiff’s request.

Title 28 U.S.C. § 1915(a)(1) authorizes the court to permit plaintiff to commence an action without prepayment of fees—*i.e.*, to proceed *in forma pauperis* (IFP)—if certain conditions are satisfied. Although the statute speaks of incarcerated individuals, it “applies to all persons applying for IFP status, and not just to prisoners.” *Lister v. Dep’t of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) (citations omitted).

Section 1915(a)(1) requires that plaintiff demonstrate an inability to afford the costs of litigation. 28 U.S.C. § 1915(a)(1). The court has “wide discretion” to grant motions to proceed IFP. *United States v. Garcia*, 164 F. App’x 785, 786 n.1 (10th Cir. 2006) (internal quotation marks and citation omitted). But, the court may not rule such requests arbitrarily or erroneously. *Id.* Thus, “to succeed on a motion to proceed IFP,” a movant simply “must show a financial inability to pay the required filing fees, as well as the existence of a reasoned, nonfrivolous argument . . . in support of the issues raised in the action.” *Lister*, 408 F.3d at 1312 (citation omitted).

Exercising its discretion, the court finds that plaintiff has made this requisite showing. The motion asserts that plaintiff is “unable to pay the filing fee.” Doc. 3 at 1. And, the affidavit attached to the motion testifies that plaintiff is unemployed and has no financial assets at all. Doc. 3-1 at 2, 4–5. Last, plaintiff’s Complaint alleges “a reasoned, nonfrivolous argument . . . in support of the issues raised in the action.” *Lister*, 408 F.3d at 1312 (citation omitted). So, plaintiff has “show[n] a financial inability to pay the required filing fees” for facially legitimate allegations. *Id.*

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff's Motion For Leave to File Complaint In Forma Pauperis (Doc. 3) is granted. The Clerk is directed to prepare a summons on plaintiff's behalf under Fed. R. Civ. P. 4. In addition, the Clerk shall issue the summons to the United States Marshal or Deputy Marshal, who the court appoints to effect service under Fed. R. Civ. P. 4(c)(3).

IT IS SO ORDERED.

Dated this 20th day of August, 2021, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge